

AMENDED IN SENATE APRIL 5, 2010

**SENATE BILL**

**No. 1291**

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**Introduced by Senator Leno**

February 19, 2010

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An act ~~relating to home furnishings~~ *to add Article 15 (commencing with Section 25257.5) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous chemicals.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1291, as amended, Leno. ~~Home furnishings; bedding products. Chemicals of concern: flame retardants.~~

*(1) Existing law requires the Department of Toxic Substance Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern and to adopt regulations to establish a process by which chemicals of concern may be evaluated. The regulations are required to adopt regulations that specify actions that the department may take following the completion of the analysis. A violation of the hazardous waste control law is a crime.*

Existing law, the Home Furnishings and Thermal Insulation Act, administered by the Bureau of Electronic and ~~Appliance Appliance~~ Repair, Home Furnishings, and Thermal Insulation, ~~requires all bedding products, other than mattresses and mattress sets, that the bureau determines to contribute to mattress bedding fires to comply with specified regulations adopted by the bureau imposes specified flame retardant requirements.~~

*This bill would require the department to evaluate any chemical that is used, or is proposed to be used, as a flame retardant, as defined, in*

*accordance with those regulations and to identify and prioritize those flame retardants that may be considered as being chemicals of concern.*

*The bill would prohibit a person from using a new flame retardant in the manufacture of, or otherwise in connection with, any upholstered furniture, bedding and filling materials, until the department completes this evaluation of that new flame retardant.*

*The bill would require the department, in consultation with the specified state agencies and interdepartmental workgroups, to perform a comparative risk assessment that compares the benefits and risks of the regulations adopted by, or technical bulletins issued by, the bureau with the benefits and risks of those flame retardants the department identifies as chemicals of concern.*

*The bill would require a person to use a flame retardant in accordance with the regulatory responses adopted by the department.*

*By creating new prohibitions, the violation of which would be a crime, this bill would impose a state-mandated local program.*

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~This bill would state the intent of the Legislature to enact legislation that would suspend the bureau's preparation of specified flammability regulations contained in Technical Bulletin 604 and establish a multiagency task force to evaluate fire safety standards in light of reported health and environmental hazards posed by toxic flame retardant chemicals and materials.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Article 15 (commencing with Section 25257.5) is  
2     added to Chapter 6.5 of Division 20 of the Health and Safety Code,  
3     to read:

Article 15. Toxic Flame Retardants

25257.5. For purposes of this article, the following definitions shall apply:

(a) “Bedding” has the same meaning as defined in Section 19007 of the Business and Profession Code.

(b) “Bureau” means the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation, as established in Section 9810 of the Business and Professions Code.

(c) “Filling material” means cotton, wool, kapok, feathers, downs, hair, liquid, or any other material, substance, or any combination thereof, loose or in batting, pads, or any other prefabricated form, concealed or not concealed, to be used or that could be used in articles of bedding or upholstered furniture.

(d) “Flame retardant” means a chemical that is, or is proposed to be, used to comply with any regulation adopted by, or technical bulletin issued by, the bureau pursuant to Chapter 3 (commencing with Section 19000) of Division 8 of the Business and Professions Code to implement the requirements of Section 19161 of the Business and Professions Code.

(e) “New flame retardant” means a chemical that is a flame retardant and that is first used on or after January 1, 2011, for purposes of complying with the regulations or technical bulletins specified in subdivision (d).

(f) “Upholstered furniture” has the same meaning as defined in Section 19006 of the Business and Professions Code.

(g) All other terms used in this article shall have the same meaning as defined in Article 14 (commencing with Section 25251).

25257.6. (a) The department shall evaluate any chemical that is used, or is proposed to be used, as a flame retardant in accordance with the regulations adopted pursuant to Section 25252 and shall identify and prioritize the chemicals that are used, or proposed to be used, as flame retardants that the department considers as being chemicals of concern, in accordance with the review process specified in Section 25252.5.

(b) (1) After completing the evaluation pursuant to subdivision (a), the department shall subsequently evaluate any flame retardant that the department has identified as a chemical of concern by determining how best to limit exposure or reduce the level of

1 hazard posed by that flame retardant, in accordance with the  
2 regulations adopted pursuant to subdivision (a) of Section 25253.

3 (2) In addition to evaluating the potential alternatives and  
4 potential hazards pursuant to the requirements of the regulations  
5 specified in paragraph (2) of subdivision (a) of Section 25253, the  
6 department shall, in consultation with the bureau, the office, and  
7 any other state agencies or interdepartmental workgroups, perform  
8 a comparative risk assessment that compares the benefits and risks  
9 of the regulations adopted by, or technical bulletins issued by, the  
10 bureau pursuant to Chapter 3 (commencing with Section 19000)  
11 of Division 8 of the Business and Professions Code to implement  
12 the requirements of Section 19161 of the Business and Professions  
13 Code, with the benefits and risks of those flame retardants that  
14 the department has identified as chemicals of concern.

15 (3) The department may, after completing the process specified  
16 in paragraphs (1) and (2), take any of the regulatory responses  
17 specified in subdivision (b) of Section 25253.

18 25257.7. (a) A person shall not use a new flame retardant in  
19 the manufacture of, or otherwise in connection with, any  
20 upholstered furniture or bedding and filling materials until the  
21 department has completed the evaluation of that new flame  
22 retardant pursuant to subdivision (a) of Section 25257.6.

23 (b) If the department identifies a flame retardant as a chemical  
24 of concern pursuant to Section 25257.6, a person may use the  
25 flame retardant only in accordance with the regulatory responses  
26 adopted by the department pursuant to subdivision (b) of Section  
27 25257.6.

28 25257.8. The requirements of the article are in addition to,  
29 and shall not otherwise affect the authority of the department  
30 pursuant to, Article 14 (commencing with Section 25251).

31 SEC. 2. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within  
38 the meaning of Section 6 of Article XIII B of the California  
39 Constitution.

1     ~~SECTION 1. The Legislature hereby finds and declares the~~  
2     ~~following:~~

3     ~~(a) Existing law requires bedding products, other than mattresses~~  
4     ~~and mattress sets, that the Bureau of Electronic and Appliance~~  
5     ~~Repair, Home Furnishings, and Thermal Insulation determines to~~  
6     ~~contribute to mattress bedding fires to comply with regulations~~  
7     ~~adopted by the bureau.~~

8     ~~(b) It is the intent of the Legislature to enact legislation that~~  
9     ~~would do both of the following:~~

10    ~~(1) Suspend the bureau's preparation of regulations contained~~  
11    ~~in Technical Bulletin 604.~~

12    ~~(2) Establish a multiagency task force to evaluate current fire~~  
13    ~~safety standards in light of reported health and environmental~~  
14    ~~hazards posed by toxic flame retardant chemicals and materials.~~